

FILED

OCT 26 2011

PATRICK E. DUFFY, CLERK
By DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

| | | |
|---------------------------|---|-----------------|
| UNITED STATES OF AMERICA, |) | CR 11-21-BU-DWM |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | ORDER |
| |) | |
| DAVID SCOTT FROST, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on October 6, 2011. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d

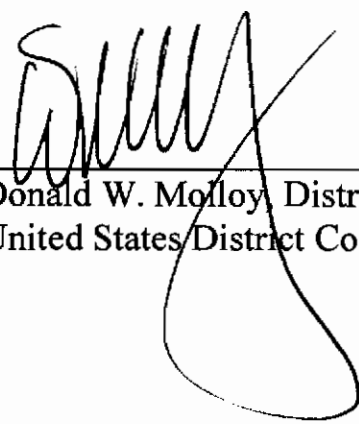
422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept David Scott Frost's guilty plea after Frost appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to one count of wire fraud in violation of 18 U.S.C. § 1343 (Count I), and three counts of aggravated identity theft in violation of 18 U.S.C. § 1028A(a)(1) (Counts XXII, XXIII, and XXVI), as set forth in the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Count II through XXI, and Counts XXIV and XXV of the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (dkt # 21), and I adopt them in full, including the recommendation to defer acceptance of the plea until sentencing when the Court will have reviewed the Presentence Investigation Report.

Accordingly, IT IS HEREBY ORDERED that David Scott Frost's motion to change plea (dkt # 13) is GRANTED.

DATED this 26th day of October, 2011.



Donald W. Molloy District Judge
United States District Court